

Remarks

Applicants respond to the outstanding Action, in which the Office found that claim 11, the only pending claim, was unpatentable over Stentiford in light of Toma. Applicants respectfully traverse this finding for each of the following reasons.

In June 2004, the Office rejected claim 11 as being obvious in light of Stentiford. In support of its position, the Office argued that the Stentiford invention could provide real-time translations in a testimonial proceeding even though it required confirmation of the language initially being input. The Office also questioned whether Applicants' claimed invention could work for its intended purpose:

To the contrary, applicant's invention requires constant input by a person but Stentiford only requires confirmation of each phrase. Therefore, the time requirements for input by a user in the applicant's system would cause a delay for each sound or input word that a person must type, while the system of Stentiford would only require confirmation of each phrase. A long sentence, for example, could be quickly confirmed by the system of Stentiford, while the applicant's system would require laborious input by a person of each word. In fact, the applicant's system would be likely to fail for the average person, because they may be unable to input words fast enough in real-time unless limited to a short sentence or phrase that a person can remember while inputting it to a computer. Thus, Stentiford's system would be much faster than the applicant's, depending on how many words are contained in each phrase as it is spoken. It is noted that Stentiford allows for speech recognition which obviates the user from the need to type any input whatsoever for 'converting, in real-time, said representations to text.'

(Office Action dated June 25, 2004 at p. 4.)

Applicants, however, have presented arguments during prosecution that undermine the Office's argument. First of all, the Stentiford system is wholly inadequate for use in any kind of testimonial proceeding, as is claimed by Applicants. It is extremely common for a testimonial proceeding such as, for example, a deposition or examination of a witness during trial, to include continuous testimony over a lengthy period of time. If using the Stentiford system, the court reporter or other individual would be required to read the text for confirmation, and then provide an input into the system for such confirmation. The court reporter or other individual would be spending most of his or her time reviewing and

confirming prior testimony rather than actually performing the task of transcribing the words spoken during the proceeding. The court reporter or other individual certainly cannot pay attention to the required confirmation process of Stentiford and also transcribe the proceeding at the same time. This problem is amplified by the fact that the person who would be confirming the feedback text during a testimonial proceeding would not be the same person who is actually doing the speaking which is represented by the text (and thus again the confirming individual would only know what they can hear and remember). The court reporter or other individual would soon fall well behind in the transcription process, and would undoubtedly miss testimony, compromising the transcription process (a critical component of such proceedings). The Stentiford system would effectively cripple the transcription process during a transcription proceeding, and render accurate transcription impossible. Thus, the Stentiford system, which the Office conceded “require[s] confirmation of a phrase,” would be wholly inadequate for translating text in a lengthy testimonial proceeding.

In addition, the Office was incorrect in asserting that “the applicant’s system would be likely to fail for the average person, because they may be unable to input words fast enough in real-time unless limited to a short sentence or phrase that a person can remember while inputting it to a computer.” Applicants’ claimed invention is limited to transcription of a testimonial period. As such, it is not an “average person,” but rather a court reporter or other individual trained to provide real-time transcription. The Office’s position fails to take into consideration the fact that such individuals transcribe testimonial proceeding, in real-time, every day. As such, the Office’s suggestion that one cannot input words into Applicants’ system fast enough for real-time translation is blatantly incorrect.

Thus, for each of these reasons, Applicants respectfully traverse the arguments raised in the Office’s June 2004 Action.

In December 2004, Applicants submitted a Request for Continued Examination. While Applicants believed that claim 11 was patentable over the Stentiford reference, Applicants amended claim 11 to include that Applicants’ system received representation of words spoken in a testimonial proceeding “without requiring confirmation of said representations,” as allegedly required by Stentiford. In response, the Office issued the

present Action. In this Action, the Office conceded that the Stentiford reference “does not explicitly teach the negative limitation ‘without requiring confirmation of said representation.’” (Office Action dated May 20, 2005 at p. 3.) The Office, however, backed off its earlier position that the Stentiford system “require[s] confirmation of each phrase,” instead noting that “real-time processing is desirable and that the only reason [Stentiford] suggests input confirmation is to improve accuracy by giving the user a chance to make corrections.” (*Id.*) (emphasis in original). As such, the Office is apparently suggesting that the confirmation step in the Stentiford reference is optional. This position, however, illustrates the Office’s conundrum.

If the Office’s position is that the Stentiford reference discloses a system that requires the user to confirm the text input in a first language prior to translation, then the Stentiford system cannot be used for real-time transcription and translation of a testimonial proceeding for the reasons noted above, namely that a court reporter would quickly fall behind in trying to confirm the text and would be unable to keep up with transcribing the testimony. If, however, the Office’s position is that the confirmation step is simply “desirable,” and not required, the Stentiford system would still be inadequate for translating spoken words in a testimonial proceeding. As the Stentiford reference concedes, translation of either text or spoken words results in numerous inaccuracies:

Considerable research has been carried out on computer systems for the automatic translation of text. Apart from a few very restricted applications (e.g. translation of weather forecasts), **no product exists which can automatically produce accurate translations and hence replace human translators.** The problems of translating speech are compounded by errors of speech recognition, the additional information in intonation, stress, etc, and the exactness of speech itself.

(Background of the Invention section of the Stentiford reference, col. 1, lns. 21-29.) Accordingly, the Stentiford reference concedes that without confirmation of the language being input, an accurate transcription, and hence an accurate translation, is impossible. In testimonial proceedings such as a trial, where millions of dollars, or even worse yet one’s life, may be at stake, accuracy is of the utmost importance. Thus, to the extent that the Stentiford reference does not require the confirmation step, such a system would not result

in an accurate transcription and translation, and thus, cannot be used to translate words spoken during a testimonial proceeding.

As such, the Stentiford reference does not disclose a translation system suitable for translation in a testimonial proceeding, regardless of whether the Stentiford system requires the confirmation step or not.

The Office attempts to remedy the shortcomings of Stentiford by relying on a secondary reference, Toma, to illustrate that it was well-known to perform accurate language translation automatically without requiring confirmation. (*Id.* at 4.) The Toma reference requires that the user type in the text to be translated on a magnetic tape Selectric typewriter (MTST), which codes the characters and records them on magnetic tapes suitable for processing by a digital computer. (Toma reference, col. 8, lns. 42-68.) Thus, the addition of the Toma reference does not cure the inadequacies of Stentiford and adds nothing to the mix. The art of record still illustrates two distinct examples of translation systems – one which requires the manual input of the text to be translated and another which utilizes speech recognition capabilities to input the text. While the systems requiring manual input of the text presumably need not confirm the text for accuracy, one cannot input words fast enough to insure real-time transcription and translation. And, while systems using speech recognition can input words more rapidly, the user must confirm the accuracy of the words being input, thereby preventing this second system from providing real-time transcription and translation as well.

Thus, because neither the Stentiford reference nor the Toma reference disclose or suggest a translation system adequate for use in a testimonial proceeding, Applicants respectfully submit that claim 11 is patentable over these cited references for this reason alone.

Moreover, Applicants argue that claim 11 is patentable over the Stentiford reference because Stentiford fails to disclose the step of “communicating the text in the second language to a terminal for real-time display.” As noted in Applicants’ previous response, Stentiford does not specifically mention its own display, let alone communicating text in the second language to another terminal for real-time display. In

fact, Stentiford specifically teaches that the text in the second language is *not* communicated:

Preferably the system comprises first and second terminals operably connected via a data link. The first terminal provides an input means and characterization means, and the second terminal provides a store and output means. The first terminal preferably accepts a phrase in a first language, determines which one of a collection of phrases stored in the store the first language phrase corresponds to, and generates a message for transmission to the second terminal via the data link, which message indicates which of the collection of phrases stored in the store corresponds to the input phrase. *Two-way communication is possible using two symmetrically constructed translation systems. This has the advantage that each unit is only concerned with recognizing and synthesizing words in the language of the person operating that unit. Communication with the second unit is by means of a protocol which specifies the phrase and the contents of any subordinate phrases. The protocol is independent of language and hence allows messages to be transmitted without the need to identify the target language.*

(Stentiford reference, col. 6, lns. 41-61) (emphasis added). Thus, Stentiford teaches that a protocol be sent that specifies certain information, and that the protocol is “independent of language” and can be transmitted “without the need to identify the target [presumably second] language.” Thus, no text in the second language is ever communicated.

The current Office Action notes that it is inherent that the Stentiford reference includes a visual display of the text, and furthermore, notes that the Stentiford reference explicitly discloses two terminals to provide two-way communication. The Office Action, however, fails to address the arguments previously raised by the Applicants. As such, Applicants again assert that the above cited portions of the Stentiford reference explicitly teaches away from “communicating the text in the second language to a terminal for real-time display,” as is claimed by Applicants. Applicants assert that claim 11 is patentable over the Stentiford reference for this reason as well.

In light of all of the foregoing arguments, Applicants believe that the present application is in condition for allowance. The Examiner should feel free to contact the undersigned attorney if he has any questions.

A Notice of Allowance is courteously solicited.

Respectfully submitted,

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